

Our File: 400308

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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LENDORA BOSWELL

Plaintiff,

v.

CIVIL ACTION NO.

HOBBY LOBBY STORES, INC.

Defendant.

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NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK:

Defendant, Hobby Lobby Stores, Inc., by and through its attorneys, Salmon Ricchezza
Singer & Turchi, LLP, respectfully aver as follows:

1. At all material times, Plaintiff, Lendora Boswell was and is a citizen of the State of New York and currently resides in Suffolk County, New York. (See Plaintiff's Complaint, attached as Exhibit A).
2. At all material times, Defendant, Hobby Lobby Stores, Inc., is an Oklahoma corporation with its principal place of business located at 7707 SW 44th Street, Oklahoma City, OK 73179.
3. As plaintiff is a citizen of the state of New York and the only defendant is not a citizen of the state of New York, diversity of citizenship exists under 28 U.S.C. §1332.
4. Plaintiff commenced a civil action against defendant in the Supreme Court of the State of New York, County of Suffolk, on or about May 29, 2020 (Exhibit A).

5. However, a review of plaintiff's Complaint revealed no *ad damnum* clause. Therefore, Plaintiff's Complaint did not allege injuries or damages with sufficient specificity to reasonably assert by a preponderance of competent, admissible evidence that the amount in controversy exceeded the federal diversity jurisdictional threshold of \$75,000 (Exhibit A).

6. Therefore, an answer was filed on behalf of defendants and a supplemental demand for damages was served on counsel for plaintiff.

7. Plaintiff's response to defendants' supplemental demands for damages was first received by counsel for Defendant upon request via e-mail on November 24, 2020 (See email correspondence attached hereto as Exhibit B). Plaintiff's Supplemental Statement of Damages asserts, "Plaintiff claims monetary damages for past, present and future pain and suffering, and past and future medical care in the amount in excess of FIVE MILLION (\$5,000,000.00) DOLLARS[.]" (See Plaintiff's Response to Defendants' Supplemental Demand for Damages attached as Exhibit C)

8. Pursuant to 28 U.S.C. §1446(b)(3):

[I]f the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

10. As this petition for removal is being filed within 30 days of receipt of plaintiff's response to defendants' supplemental demand for damages, it is timely filed.

11. Moreover, in light of plaintiff's response to defendant's supplemental demand for damages, plaintiff has set forth a claim in which an amount in excess of the jurisdictional limit of \$75,000, exclusive of interest and costs, may be at stake.

12. Diversity of citizenship within the meaning of 28 U.S.C. §1332 exists between Plaintiff and Defendants since:

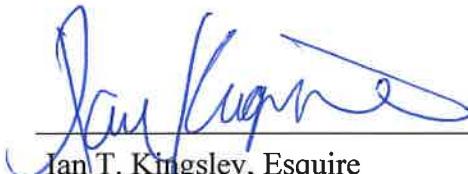
- (a) Plaintiff is a citizen of the State of New York;
- (b) At all material times, Defendant, Hobby Lobby Stores, Inc., was and is an Oklahoma Corporation.

13. Furthermore, diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of filing of this notice, such that defendants are entitled to removal pursuant to 28 U.S.C. §1441 as amended, and 28 U.S.C. §1446

WHEREFORE, Defendant, Hobby Lobby Stores, Inc. herein prays that the above captioned action now pending in the Supreme Court, Suffolk County, be removed therefrom to this Honorable Court.

Date: December 16, 2020

SALMON RICCHEZZA SINGER & TURCHI,
LLP



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